GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri Bandi Eswaraiah, S/o Ramanaiah, R/o Gudur, SPSR Nellore District, against the proceedings, Rc.C5(M)10/2014, dated 03.8.2017 of the District Collector, SPSR Nellore - under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 10 Dated: 07-02-2018

Read the following:

1. Proceedings of the District Collector, SPSR Nellore, Rc.C5(M)10/2014, dated 03.8.2017.
2. Appeal petition filed by Sri Bandi Eswaraiah, S/o Ramanaiah, R/o Gudur, SPSR Nellore District, before the Government on 24.08.2017.
3. Govt. Letter No.733152/CV.2/2017, dated 01.09.2017.
4. Appeal Petition filed by Sri Bandi Eswaraiah, S/o Ramanaiah, before the Hon'ble M(SWE&TWE), Endt. No.609/SW&TW/2017, dt:11.09.2017.
5. Govt. Memo No.733152/CV.2/2017, dated 13.09.2017.
6. From the District Collector, SPSR Nellore,Lr.RC.C5(M) 10/2014, dated 16.10.2017.
7. Govt. Memo No.733152/CV.2/2017, dated 01.11.2017.
8. Govt. Memo No.733152/CV.2/2017, dated 28.11.2017.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders canceling the ST –Yanadi Caste Certificate obtained from the then Mandal Revenue Officer, Gudur in the year 1991 by Sri Bandi Eswaraiah, S/o Ramanaiah.

2. In the reference 2nd read above, Sri Bandi Eswaraiah, S/o Ramanaiah, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have rejected the said appeal petition as the appellant have not followed the procedure for filing of the appeal Petition before the Government i.e. (1) not filed on the bond papers & not affixed the Court fee stamps, (2) not filed Vakalath, in the reference 3rd above.

3. In the reference 4th above, Sri Bandi Eswaraiah, S/o Ramanaiah, has again filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPSR Nellore as per the Act 16/1993. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 5th read above.

4. In the reference 6th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Bandi Eswaraiah, S/o Ramanaiah.

5. The said Appeal Petition has been posted for hearing on 21.10.2017, 18.11.2017 and finally on 16.12.2017 and the same has been informed to the Appellant in the references 5th , 7th & 8th read above, and he was requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

[P.T.O]

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 03.8.2017, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that he belongs to ST-Yanadi community by birth and working in Railways at Chennai and he has one son and two daughters and his elder daughter i.e. B. Anusha was not his own daughter and she is the daughter of BC-Vaddera caste couple and he adopted her and she married to a person who belongs to BC-Vaddera community. Further he has stated that as the disputes arose in between the adopted daughter and his son-in-law i.e. Krishnaiah, the said Krishnaiah foisted this false case and spoiled his entire career.

II. The District Level Scrutiny Committee is observed that on verification of the report of the Sub Collector, Gudur and the report of the District Tribal Officer, Nellore it is observed that the name of the appellant has been got changed as Sri Bandi Eswaraiah, S/o Ramanaiah instead of Sri Bellamkonda Eswaraiah, S/o Ramanaiah, initially he got married to another women, who belongs to Vaddera (BC) community and again he got married another women, who is belongs to Vaddera –BC caste, that his daughter also got married to Vaddera (BC) caste person, and that the blood relatives of the individual (mother, brother, first wife and their son) have also agreed that he belongs to Vaddera(BC) community. Therefore, it is evident that Sri Bandi Eswaraiah S/o Ramanaiah does not belongs to Yanadi(ST) community, but he obtained Yanadi (ST) certificate, got selected in Railway Department under ST category. It is also proved that beyond doubt that the appellant tried to grab the benefits earmarked for the Welfare of Scheduled Tribes, thereby depriving a genuine Scheduled Tribe candidate of the legitimate right to enjoy the benefits being extended by the Government for their upliftment. The appellant intentionally tried to enjoy the benefits meant for Scheduled Tribe by illegal means and he has played fraud against the Government and obtained caste certificate fraudulently. Moreover, he extended the same caste to his children and also obtained the caste certificates to his children from the then Tahsildars, Gudur. Further he failed to produce substantive evidences in support of his community claim. Taking into consideration of the all above, the DLSC has recommended for cancellation of Yanadi Caste certificate. Based on the findings of the DLSC, the District Collector has cancelled the caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case that the appellant his arguments as his grounds in appeal petition and stated that the lower authority failed to observe that his father belongs to Yanadi Community which was identified as Scheduled Tribe and as such he is also belongs to ST and also failed to considered the statements of neighbours, close relatives and others and mere marriages with other community does not change the social status and as such as impugned order shall be cancelled. On verification of the documents and the grounds of appeal and para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he has failed to produce any evidence that he belongs to Yanadi Community . It is also observed that the blood relatives of the appellant are belongs to Vaddera-BC community but not ST-Yanadi. It is further brought to the notice that the certificate earlier issued to the appellant in a routine

[Contd.. on P.3]

manner and the same was cancelled after conducting detailed and thorough enquiry into the case status of the appellant. That as per the Act that the burden of proof lies on the appellant, belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant except relaying the evidences and documents filed before the lower authority failed to produce any additional material more particularly the evidence of his ancestors caste for re-appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, SPSR Nellore. That taking consideration of the above and the material on the record that it can be concluded that the lower authority passed the order as per law which does not any interference .

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed Sri Bandi Eswaraiah, S/o Ramanaiah, does not deserve any interference. Hence, Proceedings of the District Collector, SPSR Nellore issued vide Rc.C5(M)10/2014, dated 03.8.2017, is hereby upheld and the Appeal Petition filed by Sri Bandi Eswaraiah, S/o Ramanaiah, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Gudur deemed to be cancelled.

8. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

9. The records (containing Rc.C5(M)10/2014, pages: 1-427) received from the District Collector, SPSR Nellore through the reference 6th read above, are returned herewith in original to the District Collector SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore
(with original records) (BY RPAD)
Sri Bandi Eswaraiah,
S/o late Ramanaiah,
D.No. 9-11, B.S.Peta,
Gudur, SPSR Nellore District.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER